

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO. 05-11443-GAO

ETHAN THOMAS
Plaintiff,

VS.

NEW ENGLAND FAST FERRY OF
MASSACHUSETTS, LLC, NEW
ENGLAND FAST FERRY COMPANY, LLC,
and INTERLAKE LEASING IV, INC.,
Defendants.

DEFENDANTS' RULE 26(a)(3) DISCLOSURE

Now come the defendants, New England Fast Ferry of Massachusetts, LLC., New England Fast Ferry Company, LLC., and Interlake Leasing IV, Inc., in the above-entitled action, by and through their undersigned counsel, Clinton & Muzyka, P.C., and submit their Pretrial Disclosure pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure.

A. Witnesses

1. Witnesses whom the defendants expect to call

Albion G. Davis, III
758 Purchase Street
New Bedford, MA 02740

Michael Glasfeld
42 Clift Street
Mystic, CT 06355

Henry A. McKenna, P.E.
35 Hubbard Road
Weston MA 02493

Brian Mercer, MD
173 Lincoln Street
Newton, MA 02161

Dennis A. Vogel
25 June Ave.
Oak Bluffs, MA 02568

Raymond DeBettencourt
317 State Road
Vineyard Haven, MA 02568

Manny Somoana
249 County Road
Oak Bluffs, MA 02557

Carl Walker
7 Shaker Lane
East Falmouth, MA 02536

Mark K. Rozum
4 Cranberry Ridge Rd.
Mashpee, MA 02649

Keeper of the records of:

Beth Israel Deaconess Medical Center
330 Brookline Ave.
Boston, MA 02215

Chun Lim, M.D., Ph.D.
Beth Israel Deaconess Medical Center
Department of Neurology
330 Brookline Ave.
Boston, MA 02215

Beth MacDonald, M.D.
1 Hospital Road
P.O. Box 2159
Oak Bluffs, MA 02557

Martha's Vineyard Hospital
P.O. Box 1477
Oak Bluffs, MA 02557

Shields MRI - Dartmouth
313 Faunce Corner Road
Dartmouth, MA 02747

Barbara A. Stelle, M.D.
25 Beetle Swamp Road
Edgartown, Massachusetts 02539

David J. Gorenberg, M.D.
354 Gifford Street,
Suite 1
Falmouth, Massachusetts 02540

Raymond Monto, M.D.
12 Cournoyer Road
West Tisbury, Massachusetts 02575

Woods Hole, Martha's Vineyard and Nantucket
Steamship Authority
P.O. Box 284
Woods Hole, MA 02543

OneBeacon Insurance Company
One Beacon Street
Boston, MA 02108-3100

2. Witnesses whom the defendants may call if the need arises

Richard Clark
390 Franklin Street
Vineyard Haven, MA 02568

Richard F. McElhinney
46 Cow Path Road
Vineyard Haven, MA 02568

Phillip J. Parent
27 Castle Road
East Falmouth, MA 02536

Barbara A. Stelle, M.D.
25 Beetle Swamp Road
Edgartown, Massachusetts 02539

Chun Lim, M.D., Ph.D.
Beth Israel Deaconess Medical Center
Department of Neurology
330 Brookline Ave.
Boston, MA 02215

Beth MacDonald, M.D.
1 Hospital Road
P.O. Box 2159
Oak Bluffs, MA 02557

David J. Gorenberg, M.D.
354 Gifford Street,
Suite 1
Falmouth, Massachusetts 02540

Linda H. Riley, M.S., CCC-SLP
6 Pelican Ct.
Ocean Pines, MD 21811

Thomas Murphy
314 Hope St., Apt. 5
Bristol, RI 02809

Melissa Scolovino
226H West Main Rd.
Little Compton, RI 02837

B. Designation of witnesses whose testimony will be presented by deposition

The defendants believe that the witnesses listed above will either attend trial or they are within the subpoena power of the court. However, if the witnesses are unavailable for trial or the defendants are unable to subpoena these witnesses, the defendants reserve the right to read their depositions into evidence at trial.

C. Identification of Exhibits

Exhibits that the defendants expect to offer

1. Expert Report of Henry A. McKenna, P.E. including its exhibits, attachments, calculations and references;

2. Independent Medical Examination of the plaintiff performed by Brian Mercer, M.D.
3. Videotapes of accident scene;
4. Photographs of the M/V WHALING CITY EXPRESS;
5. Specifications of the M/V WHALING CITY EXPRESS;
6. Daily Vessel Log of the M/V WHALING CITY EXPRESS;
7. Weather Records from the National Climatic Data Center for December 27, 2004 at Vineyard Haven, Massachusetts;
8. Specifications for Wintech 5 ton winch Model HM 12;
9. Parts, Operation and Maintenance Manual of Hand Winch Models, Form MHD56031, Edition 3;
10. Memoranda from Mark Rozum, Director of Terminal Operations, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority;
11. Copy of E-mail from Bill Cloutier of the Steamship Authority to Phillip J. Parent dated 3/23/2005;
12. Written statement of Richard McElhinney of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority;
13. Drawing No. TW-012-1, "50 ft Transfer Bridge, by Fay, Stafford & Klondike, Inc.
14. Notice of Lien from OneBeacon Insurance Company;
15. Exhibits from deposition of Ethan Thomas;
16. Exhibits from deposition of Michael Glasfeld;
17. Exhibits from deposition of Mark Rozum;
18. Exhibits from deposition of Raymond Debettencourt;
19. Exhibits from deposition of Richard McElhinney;
20. Exhibits from deposition of Dennis Vogel;
21. Exhibits from deposition of Richard Clark;
22. Exhibits from deposition of Carl Walker;
23. Photographs of the subject winch;
24. Photographs of transfer bridge;
25. Photographs of the plaintiff;
26. Plaintiff's tax returns 2000-2004;
27. Plaintiff's earnings records from the Steamship Authority;
28. Medical records from Chun Lim, M.D., Ph.D.;
29. Medical records from Beth MacDonald, M.D.;

30. Medical records from Martha's Vineyard Hospital;
31. Medical records from Beth Israel Deaconess Medical Center;
32. Medical records from Raymond Monto, M.D.;
33. Medical records from David J. Gorenberg, M.D.;
34. Medical records from Shields MRI; and
35. Medical records from Barbara Stelle, M.D.

Exhibits that the Defendant may offer if the need arises

1. Agreement between New England Fast Ferry Company of Massachusetts and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority; and
2. Vessel Charter Agreement between New England Fast Ferry Company and Interlake Leasing IV, Inc.

By their attorneys,
CLINTON & MUZYKA, P.C.

"/s/ Thomas J. Muzyka"
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Dated: June 18, 2007